

**FIDEL AMARILLO, SANCHITO C. CABANA, ANDRES M. MARMOL,
ALEXANDER G. SURIL, ROGELIO R. GUERRERO, JESUS L. CAPIENDO,
ARTURO P. RUZOL, LORETO G. SURIL AND CAROLINA D.
QUERIJERO, PET...**

G.R. Nos. 145007-08. January 28, 2003

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-145007-08/>

YNARES-SANTIAGO, J.:

This is a petition[1] for certiorari, with prayer for a writ of preliminary injunction, seeking to annul the orders dated August 16[2] and September 27, 2000 of the Sandiganbayan in Criminal Cases Nos. 25813 and 25518, which denied petitioners' second motion for leave of court to file a motion for reinvestigation.

The facts as culled from the parties' pleadings are as follows:

On March 21, 1997, the Fact-Finding and Intelligence Bureau, through its director, filed a complaint-affidavit with the Evaluation and Preliminary Investigation Bureau (EPIB) of the Office of the Ombudsman against petitioners, namely, Fidel C. Amarillo, Sanchito C. Cabana, Andres M. Marmol, Alexander G. Suril, Rogelio R. Guerrero, Jesus L. Capiendo, Arturo P. Ruzol, and Loreto G. Suril, all officials of the Department of Public Works and Highways, Aurora Engineering District, together with Carolina Querijero, a private contractor, for estafa through falsification of public documents. The complaint alleged that petitioners simulated a contract with Querijero for the repair of the Pugo and Dyos bridges, which were allegedly damaged by flashfloods on November 3, 1995.

Finding sufficient basis for a preliminary investigation, Graft Investigation Officer (GIO) Melinda S. Diaz directed petitioners to submit their counter-affidavits. However, instead of doing so, they submitted a letter dated May 20, 1997, stating that they were adopting as their counter-affidavit Amarillo's affidavit in the administrative complaint which involved the same subject matter. The case was then assigned to GIO Bienvenida A. Gruta.

In her investigation, Gruta considered, among others, (a) the sworn statements executed by Zosimo C. Danay, Jr., and Rolando L. Eresmas, the Barangay Chairperson and Kagawad, respectively, of Barangay Tinib, Casiguran, Aurora; (b) the certification dated March 12, 1999 of Geraldine B. Santos, a social welfare officer of the same barangay; and (c) the memorandum dated December 28, 1995 of Helideliza R. Vicente, the Municipal Agriculturist of Casiguran, Aurora.

In his affidavit,[3] Danay stated that Pugo and Dyos bridges are located in Barangay Tinib, Casiguran, Aurora; that the same were repaired by the Industrial Development Corporation (IDC) sometime in October or November 1995 for free; and that no repair was made on the said bridges in January 1996.

Eresmas, in his affidavit,[4] corroborated Danay's statements that the Dios and Nalanan (also known as Pugo) bridges in Barangay Tinib, Casiguran, Aurora were repaired by IDC; and that since then, it had not been damaged. He added that the flashflood occurred not on November 3, 1995, but on December 24, 1995.

The certification by social welfare officer Geraldine B. Santos disclosed that the flashflood that affected Barangay Tinib, Casiguran, Aurora occurred on December 24, 1995. This was strengthened by the memorandum submitted by Helideliza R. Vicente containing the final report on the damage on crops and livestock resulting from the flashflood that occurred on the said date.

Petitioner Carolina D. Querijero submitted her counter-affidavit, denying the material allegations in the complaint, and attached thereto a photocopy of the letter dated January 4, 1996 by Mayor Fidel Salamera, addressed to Mr. Joselito Ong, president and general manager of IDC, requesting said company to allow petitioner Querijero to utilize its crane and boom in the repair of Dyos and Pugo bridges; and the letter of a certain Wilbur Dee, general manager of IDC, granting the above request of Mayor Salamera.

The graft investigator found reasonable ground to include Mayor Salamera as one of the respondents, hence, he was directed to submit his counter-affidavit and supporting evidence.

In his counter-affidavit, Mayor Salamera stated, among others, that on November 3, 1995, heavy rains hit Casiguran, Aurora which resulted in widespread destruction of properties, both public and private, including Dyos and Pugo bridges; that the bridges were repaired by Caroline Construction, pursuant to the contract awarded by the DPWH Aurora Engineering District; and that Danay's statements were not accurate and were politically motivated.

On June 23, 1999, graft investigator Gruta issued a resolution finding sufficient ground to hold petitioners for trial on two counts of estafa through falsification of official documents, thus:

After a circumspect evaluation of the record, it has become apparent that there was conspiracy among the respondents to make it appear that Pugo and Dyos Bridges were repaired in January 1996 by Caroline Construction in the total amount of P381,824.04 when in truth and in fact no repair/construction was actually undertaken, to the prejudice of the government. Accordingly, we find sufficient ground to bring the respondents to trial for two counts of estafa through falsification of official documents in violation of Article 315 par. 2(a) in relation to Article 171 of the Revised Penal Code.

Wherefore, it is most respectfully recommended that the appropriate information be filed before the Sandiganbayan against Fidel T. Salamera, Fidel C. Amarillo, Sanchito C. Cabana, Andres M. Marmol, Alexander G. Suril, Rogelio R. Guerrero, Jesus L. Capiendo, Arturo P. Ruzol, Loreto G. Suril and Carolina D. Querijero.

SO RESOLVED.[5]

The recommendation was approved by the Ombudsman.

Consequently, an Information was filed with the Sandiganbayan charging petitioners with estafa through falsification of official documents, docketed as Criminal Case No. 25518.

On September 17, 1999, petitioners filed a motion for reconsideration with prior leave of court, with the Office of the Special Prosecutor on the ground that they were not given the chance to answer the affidavits executed by Danay and Eresmas.

On December 2, 1999, the Office of the Special Prosecutor recommended the denial of the motion for reconsideration on the ground that no new evidence was discovered which materially affects the resolution, and no errors of law or irregularities were committed prejudicial to the interest of the movant.[6] It also recommended the filing of an additional information with the Sandiganbayan, considering that only one charge was filed despite the approved EPIB finding that there were two counts of estafa committed by petitioners. Likewise, it was observed by the Office of the Special Prosecutor that the information in Criminal Case No. 25518 contained some

defects such as (a) the non-inclusion of the phrase “committing the offense in relation to office”, and (b) failure to state the participation of accused Loreto G. Suril, et al.[7] Hence, the Special Prosecutor recommended the amendment of the information in Criminal Case No. 25518.

Accordingly, on February 17, 2000, another information for estafa through falsification of official documents was filed and docketed as Criminal Case No. 25813. The information in Criminal Case No. 25518 was amended to conform to the recommendation of the Office of the Special Prosecutor.

On July 4, 2000, petitioners filed a second motion for leave of court to file a motion for reinvestigation on the ground of newly discovered evidence, which consisted of an affidavit executed by Mineo F. Taduyo, administrative officer of IDC, attesting that indeed Mayor Salamera requested IDC in writing to allow Querijero to utilize its heavy equipments for the repair of Pugo and Dyos bridges and that Wilbur Dee, the general manager of the aforesaid company, granted the request in his letter dated January 10, 1996.

On August 16, 2000, the Sandiganbayan denied the motion on the ground that a second motion for reinvestigation is prohibited under Republic Act No. 6770. Petitioners moved for reconsideration, but the same was denied in open court on September 27, 2000. Hence, this petition.

Petitioners contend that the Sandiganbayan committed grave abuse of discretion when it denied their second motion for leave of court to file a motion for reinvestigation and their motion to reconsider said denial, thus, depriving them of their right to due process. According to petitioners, they were not given the opportunity to refute the statements of Danay and Eresmas that no repair was made by Caroline Construction on the bridges and the finding of conspiracy by the Special Prosecutor. Petitioners further argue that their motion for reinvestigation is based on meritorious grounds, i.e., newly discovered evidence. Petitioners aver that legalistic formalities and narrow technicalities that would derail an otherwise valid claim are frowned upon; and that procedural formalities must yield where the interest of justice would make unfair the strict application of the rules.

Public respondent Sandiganbayan, through the Office of the Special Prosecutor, maintains that there was nothing capricious and whimsical in denying petitioners’ second motion for leave of court to file motion for reinvestigation, for it merely applied the Office of the Ombudsman’s Rules of Procedure.[8] Public respondent claims that the alleged repair of the bridges has been investigated twice, first by EPIB in its preliminary investigation, and second by the Office of the Special Prosecutor. To give due course to the second motion for leave is tantamount to allowing a determination, for the third time, of the existence of probable cause. There must be an end to a reevaluation of evidence.

Public respondent likewise asseverates that the affidavit of Taduyo cannot qualify as newly discovered evidence. First, it was available during the preliminary investigation of the complaint. Second, it contains nothing that would alter the findings of the Office of the Special Prosecutor that the two bridges were not damaged and that no repair was done by Caroline Construction. Taduyo merely attested in said affidavit that IDC received the letter of Mayor Salamera requesting said company to allow the use of its heavy equipment in the repair of the two bridges and that said request was granted by Wilbur Dee, the company’s general manager. Taduyo did not attest that he saw the actual repair of the two bridges by Caroline Construction in 1996. Public respondent maintains that a motion for reinvestigation on the ground of newly discovered evidence is allowed only where said evidence was not available during the probe, which evidence, if proven or admitted, may probably change the prosecutor’s findings as to the existence of a prima facie case.

Public respondent also refutes petitioners’ claim that they were denied opportunity to rebut the findings of conspiracy by the Office of the Special Prosecutor. Petitioners could have raised the same in its motion for reconsideration, but they failed to do so. Neither were petitioners denied the chance to refute the allegations of

barangay officials Danay and Eresmas. The truth is, petitioners, in their motion for reconsideration, tried to discredit the statements of the said barangay officials by saying that the latter could not possibly have an accurate recollection of events which happened two years ago. However, the Special Prosecutor did not give weight to petitioners' allegations.

The petition centers on the issue of whether or not the Sandiganbayan committed grave abuse of discretion in denying the second motion for leave of court to file a motion for reinvestigation.

The petition lacks merit.

Due process of law means giving opportunity to be heard before judgment is rendered. It is a law which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial. There is no violation of due process even if no hearing was conducted, where the party was given a chance to explain his side of the controversy. What is frowned upon is the denial of the opportunity to be heard.[9]

In the case at bar, petitioners cannot claim that they were denied due process of law. The Evaluation and Preliminary Investigation Bureau, upon a finding of sufficient basis to conduct a preliminary investigation, directed petitioners to submit their respective counter-affidavits, but they did not. Instead, they manifested that they were adopting, as their counter-affidavits, the affidavit filed by Amarillo in the administrative charge filed against him and petitioners. Clearly, petitioners were given the opportunity to explain their side. Thus, petitioners cannot shift the blame to respondent if in its determination of probable cause, it found well-founded the recommendation of Graft Investigation Officer Gruta, which was based on the affidavits of Danay and Eresmas.

Further, petitioners filed a motion for reconsideration where they assailed the accuracy of the statements given by Danay and Eresmas. Where the parties were given the opportunity to seek a reconsideration of the action or ruling complained of, they cannot claim denial of due process of law.[10]

Anent the second ground alleged by petitioner, we cannot consider Taduyo's affidavit as a newly discovered evidence. Under the Rules of Court,[11] the requisites for newly discovered evidence are: (a) the evidence was discovered after trial (in this case, after investigation); (b) such evidence could not have been discovered and produced at the trial with reasonable diligence; and (c) that it is material, not merely cumulative, corroborative or impeaching, and is of such weight that, if admitted, will probably change the judgment.[12]

Taduyo's affidavit falls short of the second and third requirements. It could have easily been produced during the investigation of the case. There was no showing of Taduyo's non-availability at the time of the investigation or the absence of the correspondence between Mayor Salamera and Wilbur Dee from IDC records. Also, assuming that said affidavit could not have been reasonably produced during the investigation, still it can not qualify as newly discovered evidence, because it was not material to the issue. As alleged by public respondent, the affidavit merely stated that IDC received the letter-request of Mayor Salamera and that Wilbur Dee granted the request, but there was no allegation by Taduyo that he actually saw or had personal knowledge of the repair of the Pugo and Dyos bridges by petitioners through Caroline Construction. In fact, in the same affidavit, Taduyo also attested that IDC undertook in September-October 1995, the construction of six bridges, two of which were the Pugo and Dyos bridges, and that it was only on May 8, 1996 that IDC prepared and presented the necessary deed of donation for the said bridges to the municipal government of Casiguran, Aurora.

Based on the foregoing, no grave abuse of discretion was committed by public respondent Sandiganbayan in denying the subject motions. Grave abuse of discretion implies such capricious and whimsical exercise of judgment as equivalent to lack of jurisdiction, or, in other words, where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an

evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[13] The records show that public respondent Sandiganbayan did none of these; it acted in accordance with the law.

WHEREFORE, the petition is DISMISSED. The assailed Orders of the Sandiganbayan are AFFIRMED. This decision is immediately executory.

Costs against the petitioners.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 3-12.

[2] Ibid., at 13.

[3] Id., at 52.

[4] Id., at 53.

[5] Records, pp. 10-11.

[6] Id., at 139.

[7] Records, p. 139.

[8] Section 7(a), Rule II of Administrative Order No. 7, series of 1990: Only one motion for reconsideration or reinvestigation of an approved order or resolution shall be allowed xxx.

[9] *China City Restaurant Corporation v. National Labor Relations Commission*, 217 SCRA 443, 449 (1993).

[10] *National Police Commission v. Bernabe*, 332 SCRA 74, 81 (2000); *Toh v. CA*, 344 SCRA 831, 836 (2000).

[11] Section 2, Rule 121 of the Rules of Court; also Section 1, Rule 37 of the Rules of Court.

[12] *Amper v. Sandiganbayan*, 279 SCRA 434, 442 (1997).

[13] *Esguerra v. Court of Appeals*, 267 SCRA 380, 399-400 (1997).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.